

LICENSE HEARING MINUTES
University of St. Thomas, 2115 Summit Avenue
Thursday, October 6, 2011, 2:00 p.m.
330 City Hall, 15 Kellogg Boulevard West
Nhia Vang, Deputy Legislative Hearing Officer

The hearing was called to order at 2:00 p.m.

Staff Present: Kyle Lundgren, City Attorney's Office; Kristina Schweinler and Larry Zangs, Department of Safety and Inspections (DSI)

Applicant: Doug Hennes, Vice President of Government Relations, University of St. Thomas (UST)

Others Present: John Hershey, Neighborhood Liaison for UST; Leo Viktora, representing Mac-Groveland Community Council and West Summit Neighborhood Advisory Committee (WSNAC); Rachel Westermeyer, 1935 Summit Avenue (Co-Chair of WSNAC Board and member of SARPA); Barbara Olson, 85 Cretin Avenue N; and Dan Adamson, 79 Cretin Avenue N

University of St. Thomas: Liquor On Sale – 291 or more Seats

Ms. Vang stated that the hearing was continued from September 29, 2011 in order for UST and WSNAC to go back and discuss with their individual groups the locations for outdoor service of alcohol. WSNAC had also sent a communication requesting clarification on the language in the ordinance.

Mr. Lundgren stated that he was the attorney assigned to represent DSI. He explained that the statute adopted by the state legislature this past year, allows universities and colleges to sell alcohol on campus. The city was then required to draft amended language to the city ordinance allowing colleges and universities to apply for and be granted a liquor license. He noted that the statute enacted by the legislature was rather "thin" on details with no clarity to municipalities for drafting enabling legislation. The city ordinance went through many drafts prior to being presented to the City Council and was adopted by the Council on July 13, 2011, going into effect on August 15, 2011. He was notified by the deputy director of DSI that after reviewing the ordinance which had been adopted, it was missing a sentence under 409.06(g)(9) concerning outdoor service and petition requirements. It was the intent that non-profit colleges and universities are exempt from having to go through the petition process wherein the applicant would be required to go through the additional hearing process in obtaining the required number of signatures on the petition in support of the application. The language which had been omitted under this subsection stated as follows: Such areas are exempt from the additional public hearing and consent process described in 409.06(g), subdivisions 1 and 2. This language basically meant that they would not have to go through the second process of notification, comment and obtaining petitions. He believed this error was clerical in nature and was somehow unintentionally omitted when it was put into the Legistar system, the Council's relatively new procedure for agenda management. This leaves the language in the ordinance rather vague and subject to interpretation. One interpretation could be that colleges/universities are subject to having to go through the process of having to submit a petition which would require notification to all residences within 300 feet of the premises and obtaining a certain percentage of signatures in support of the application. The other interpretation could be that there would only be one application and that colleges/universities are free to serve intoxicating

liquors as long as those areas are clearly described in the application and the license is subsequently issued. Since the subsequent sentence had been omitted, he would need to see what needed to be done to correct this omission; whether that would be to find the original version which included this sentence in Legistar or whether the ordinance would need to be amended and go through the agenda process again.

Mr. Viktora asked why colleges/universities would be exempt from having to go through a more rigorous process than a normal business would have to go through in order to obtain a liquor license. Mr. Lundgren responded that they did not view it as less rigorous process but rather they would not have to go through a two-hearing process. It was his interpretation of the ordinance that colleges/universities would be exempt from having to go through the petition process. Ms. Vang concurred that this was her interpretation of the ordinance as well.

Ms. Olson stated that in reading the last sentence of 409.06(g), “the seasonal outside service area license shall not be granted unless all conditions of subsections (1) through (9) are satisfied” in her opinion meant that colleges/universities would be required to go through the petition process. She disagreed with the interpretation presented by the city attorney.

Mr. Hennes stated that it was UST’s understanding that they not have to go through the petition process and were only required to clearly identify all areas on campus where the sale of alcohol may likely occur, thus not having to go through a two hearing process.

Ms. Vang stated that she had received the email from Mr. Hennes regarding the outdoor locations which outlined a revised list of locations. She asked Mr. Viktora whether he had discussed the revised list of locations with WSNAC when they had met prior to this hearing.

Mr. Viktora responded that WSNAC had not discussed the revised list of locations and maintained that they still wanted to adhere to the original proposal of one location for the one event, the homecoming game.

Mr. Hennes stated that when he met with the administration to discuss the conditions and locations to the license, they revised their list of locations to include the lower quadrangle/Monahan Plaza; the upper quadrangle; the Morrison Residence Hall patios, which overlooks the football stadium, Sabo Plaza which is in front of the science center, the science center rear plaza, the Seminary courtyards and backyards at the residential homes. It was not their intention to hold events at each of these locations; however, if they did decide they wanted to host an event at any one of these outdoor locations, they would be required to come back and go through this entire process again. They also agreed to a condition that if any of the locations could not accommodate a larger number of people at an event, they would restrict those events to only areas on the campus which would accommodate that number of people. He pointed out that currently, they used an outside vendor to serve alcohol for events where the location and number of events were unrestricted. Obtaining the liquor license was primarily so they could reduce redundancies in having two caterers for an event, would save money only having one caterer, and would they would have greater oversight and stricter control over security for such events.

Mr. Viktora responded that the full WSNAC committee had not discussed the matter of locations and wished to take this back to the full committee for discussion at their next regularly scheduled meeting on October 11; he believed this would be the appropriate body to discuss this issue.

Mr. Hennes responded that he was of the impression from the last hearing that the advisory committee was going to meet on October 3 to discuss this matter. Under the WSNAC bylaws, the full committee had the number of votes necessary to approve their position without the votes of the members representing UST. He asked whether the advisory committee had met and discussed their position regarding the revised proposal for locations to serve alcohol on campus. It was his contention that if this had not been discussed, he viewed it as a stall tactic by the committee. Mr. Viktora responded that the advisory committee had met on October 3 to discuss the housing moratorium issue. Since they now had clarification from the City Attorney's Office concerning the intent and language in the ordinance allowing for sale of alcohol on college campuses, he believed they could then take it back to the full committee for discussion and take a position. He deferred to Ms. Westermeyer to provide material on this issue on what they had discussed at their past meeting.

Ms. Vang stated that it was her understanding from the hearing on September 29 that this matter was continued to this hearing to allow the neighborhood caucus to meet and discuss the new proposal submitted by UST. Everyone at that hearing had agreed to schedule the hearing for this date and if she had been informed to the contrary, she would have scheduled it out a couple weeks further to allow the time for everyone to meet and reach a consensus. Since she had not heard from Mr. Viktora until late in the day on Wednesday, October 5, a City Council meeting day, she could not then reschedule the hearing to another date to address the new concern.

Ms. Olson again contended that it was her opinion that UST did not follow the requirements under the ordinance to petition the neighborhood and obtain signatures in support. She believed that the issuance of the license be deferred until the City Attorney opined as to the proper intent of the ordinance concerning the petition requirement.

Ms. Vang asked Mr. Zangs to clarify the understanding between DSI and St. Thomas as to requirements that needed to be met when they applied for the liquor license. Mr. Zangs responded that at the time of application, the understanding was that the petition requirement was not necessary given the language in the ordinance. Since St. Thomas had met the requirement by clearly identifying all areas outside of building structures where they intended to serve alcohol, they had satisfied the requirements provided under the ordinance.

Ms. Westermeyer distributed material highlighting studies done on the epidemic of underage student drinking across college campuses. Over the several meetings that WSNAC held to discuss the liquor license for St. Thomas, she contended that they had made all of the concessions they felt comfortable making and still be able to "live with themselves." The one condition they were unwilling to waiver was that outdoor sales be limited to homecoming weekend at Monahan Plaza/lower quadrangle. They were concerned for the image students would witness with outdoor sale of alcohol being unlimited throughout the campus and it was her contention that it was a "monkey-see, monkey-do" mentality for students.

Mr. Hennes again acknowledged that student drinking was a concern which had been discussed at length at the previous hearing. The main issue for discussion at this hearing was to obtain a license to serve alcohol on campus both for indoor and outdoor events. He again said that most of the events were alumni or donor in nature where students were not invited or were inclined to attend. As far as selling alcohol to adults prior to a football game, he did not believe this had a negative or positive impact on students who may attend the games.

Ms. Vang stated that it was her understanding that there had been a home football game over the past weekend where alcohol had been sold prior to the game. She asked how the event went and whether any problems arose concerning the sale of alcohol prior to the game. Mr. Hennes responded that the public safety director monitored the area where beer was sold prior to the game to make sure all those who entered were adults of legal drinking age, that no beer was removed from the area and that behavior was well maintained. There were approximately 100 to 200 people that were served with 45 to 50 gallons of beer being sold within a two and one-half hour timeframe. There were no problems inside the campus concerning the sale of beer prior to the game; however, there were a number of people who attended the game between St. Thomas and St. Johns and he was aware that there were problems with students drinking off campus which caused problems in the surrounding neighborhoods. UST was still in the process of investigating the complaints that were received. He suggested Mr. Hershey address security for campus events.

Mr. Hershey stated that he had worked in his position at UST for the past 14 years and his office was responsible for responding to complaints of party houses in the neighborhood. Public Safety had a special events group (SPOG) who meet on a weekly basis to discuss the various responsibilities of staff including hiring off-duty police officers to patrol the neighborhoods, number officers needed, officers to patrol parking and traffic and in some circumstances, having the mounted patrol present at events.

Ms. Vang asked Mr. Hennes to detail on a map of the campus the exact locations where they were requesting outdoor service of alcohol. Mr. Hennes presented a large map marking the locations UST was proposing for outdoor service. He offered that UST was willing to reduce the number of outdoor locations down from 11; however, he was not willing to reduce the number of events to one. UST wanted to be able to continue selling beer outdoors prior to all home football games and not just be limited to the homecoming game only. UST also wanted to be able to host outdoor events, such as alumni reunions, outdoors if requested.

Ms. Vang stated that she wanted consensus between UST and the neighborhood organizations on the number of outdoor locations.

Mr. Hennes suggested that perhaps they could reduce the number of outdoor locations from ten to seven to see how it goes for the first year and then see if they could expand the number of locations after the annual review. He did not want to limit the number of events.

Mr. Adamson stated he lived directly across from the football stadium. The football game over the past weekend resulted in the worst problems he had ever encountered since he had lived in the neighborhood. There were students drinking in and around the neighborhood, urinating in his yard, and there was so much trash, that he went around the neighborhood cleaning up and collected three garbage bags which he deposited at the stadium. He was vehemently opposed to St. Thomas being able to serve alcohol at all football games as they were currently proposing.

Mr. Viktora suggested that perhaps St. Thomas could have satellite toilets put up around campus and outside the stadium when there are home football games. He pointed out that St. Cloud State, which had a reputation as being a “drinking school” no longer had “kegs and eggs” for their football games as they desired to change their image and have taken a moral stand against drinking. It was his opinion that the neighbors desired to have this image for UST as well.

Ms. Vang stated that she believed UST needed to be allowed the time over the next year to see what modifications may need to be made as far as locations for serving alcohol outdoors on campus. She said she was more inclined to remain on the conservative side as far as number of locations. Mr. Hennes responded that he was willing to reduce the number of outdoor locations to three: Monahan Plaza/lower quadrangle, which he considered to be one area; the upper quadrangle; and the McNeely Hall courtyard. They were willing to provide reports, on a monthly basis, to WSNAC and neighborhood groups to address any issues or concerns, in addition to providing an annual report at the time the license is set for renewal.

Ms. Vang stated that after listening to the concerns of the neighbors, she suggested two additional conditions be added to the license: 1) that portable toilets be provided around the campus on the days of home football games; and 2) that trash be picked up surrounding the neighborhood blocks around the campus on the days of home football games. After reviewing all of the documents of record, Ms. Vang said she will recommend to the City Council that they approve the license with conditions. The proposed conditions were agreed to by Mr. Hennes, representing the University of St. Thomas, and are as follows:

1. The liquor service area is restricted to the specific indoor and outdoor University of St. Thomas (UST) on-campus locations, stated in the revised list of the University of St. Thomas St. Paul Campus, Liquor License Locations, dated October 6, 2011, with restrictions on outdoor locations in the first year, as stipulated in Condition # 9.
2. The licensee is responsible for taking all appropriate measures to ensure that the sale/service/consumption of alcohol is contained within the designated UST campus liquor service area(s) on file with DSI.
3. There shall be no permanent bar and/or liquor service area established by UST. The intent of this condition is to prohibit UST from conducting business in a manner similar to operations such as, but not necessarily limited to the following: a restaurant with regular hours which also serves alcohol, a bar, etc.
4. All employees/managers/servers providing alcoholic beverages under the UST license shall undergo yearly Alcohol Awareness Training through an agency approved by DSI to operate such a program. All new employees/managers/servers shall be required to undergo training within two (2) weeks of their starting date. The licensee shall have proof of each person who has completed this training on-site, and this proof shall be made available to DSI upon request.
5. Licensee will adopt procedures to ensure that alcohol is not served to anyone under the age of twenty-one (21).
6. The sale of alcoholic beverages shall occur between the hours of 10:00 a.m. and midnight, with last call at 11:30 p.m. NOTE: The sale/service of alcoholic beverages on Sunday is permitted with this license.
7. There shall be an annual review of the license and conditions. As part of the review, UST will provide documentation from the previous year regarding events at which liquor was sold, including calls to UST security regarding patron behavior at these events.

8. UST will provide to the West Summit Neighborhood Advisory Committee (WSNAC) on a monthly basis and to DSI upon request a log of events where sales of alcoholic beverages have occurred. UST will cooperate with WSNAC and DSI to address any complaints filed with the City regarding sales of alcoholic beverages by UST, including discussing the need for new or modified conditions at the time of annual license renewal.
9. During the first year after issuance of the license, the sale of alcoholic beverages outdoors shall occur only in the following outdoor locations: (a) Monahan Plaza-lower academic quadrangle; (b) Upper (residential) quadrangle; (c) McNeely Hall courtyard. This condition shall automatically lapse on the first anniversary of the date the license is issued.
10. The sale of alcoholic beverages outdoors at events with more than 150 attendees shall occur only in the following outdoor locations: (a) Monahan Plaza-lower academic quadrangle; (b) Upper (residential) quadrangle; (c) Sabo Plaza (in front of science center); and (d) Science center rear plaza.
11. UST shall place portable toilets in the vicinity of the football stadium on football home game days and will pick up trash after the football games, in the neighborhood blocks abutting the campus.

The Conditions Affidavit was submitted on October 25, 2011

The hearing adjourned at 3:50 p.m.

Submitted by:
Vicki Sheffer